

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

PARK AT REDMOND OWNERS
ASSOCIATION, a Washington non-profit
corporation,

Plaintiff,

v.

EAGLE WEST INSURANCE COMPANY, a
California corporation; and DOE INSURANCE
COMPANIES 1-10,

Defendants.

NO.

COMPLAINT FOR DECLARATORY
RELIEF, BREACH OF CONTRACT, BAD
FAITH, CONSUMER PROTECTION ACT
VIOLATIONS, AND DAMAGES

JURY DEMAND

Plaintiff Park at Redmond Owners' Association ("the Association") alleges as follows:

I. INTRODUCTION

1.1 This is an action for declaratory judgment, breach of contract, bad faith, Consumer Protection Act ("CPA") violations, and money damages seeking:

(A) A declaration of the rights, duties and liabilities of the parties with respect to certain controverted issues under Defendant Eagle West Insurance Company ("Eagle West") insurance policies issued to the Association. The Association is seeking a ruling that Eagle West's policies provide coverage for hidden damage at the Park at Redmond Condominium complex and that Eagle West is liable for money damages for the cost of repairing hidden damage at the Park at Redmond Condominium complex.

(B) Damages for breach of contract, bad faith, and CPA violations.

(C) Attorneys' fees (including expert witness fees) and costs.

(D) Any other relief the Court deems just and equitable.

II. PARTIES AND INSURANCE CONTRACTS

2.1 The Association. The Association is a nonprofit corporation organized under the laws of the state of Washington with its principal place of business located in King County, Washington. The Association has the duty to maintain the common elements and any limited common elements of the Park at Redmond Condominium complex located at 8545 166th Avenue Northeast, Redmond Washington and consisting of 5 buildings and 29 residential units.

2.2 Eagle West. Eagle West Insurance Company ("Eagle West") is domiciled in California with its principal place of business in Monterey, California. Eagle West sold property insurance policies to the Association including but not limited to Policy Nos. 25BOP21855351 and 25BOP21949762 in effect from at least May 8, 2015 until May 8, 2017. The Eagle West policies identify the Park at Redmond Condominium complex as covered property. The Association is seeking coverage under all Eagle West policies issued to the Association.

2.3 Doe Insurance Companies 1-10. Doe Insurance Companies 1-10 are currently unidentified entities who, on information and belief, sold insurance policies to the Association that identify the Park at Redmond Condominium complex as covered property.

2.4 Park at Redmond Insurers. Eagle West and Doe Insurance Companies 1-10 shall be collectively referred to as the "Park at Redmond Insurers."

2.5 Park at Redmond Policies. The policies issued to the Association by the Park at Redmond Insurers shall be collectively referred to as the "Park at Redmond Policies."

III. JURISDICTION AND VENUE

3.1 This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 (diversity jurisdiction) as the parties are completely diverse in citizenship and the amount in

1 controversy exceeds \$75,000 as necessary repairs to the Park at Redmond Condominium complex
2 has been estimated by the Association's experts to vastly exceed \$75,000.

3 3.2 Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) as the Park at Redmond
4 Insurers marketed and sold insurance to the Association in King County; a substantial part of the
5 events giving rise to the claim, including the breach of contract, occurred in King County; and the
6 insured condominium building is located in King County.

7 **IV. FACTS**

8 4.1 Incorporation by Reference. The Association re-alleges the allegations of paragraphs 1.1
9 through 3.2, above, as if fully set forth herein.

10 4.2 Tender to Eagle West. Evolution Architects conducted a limited intrusive investigation at
11 the Park at Redmond Condominium complex and discovered hidden damage to exterior sheathing
12 and framing in the exterior walls. On December 24, 2019, the Association tendered claims to
13 several of its property insurers including Eagle West.

14 4.3 Investigation. The Association hired an investigative firm, Evolution Architects
15 ("Evolution"), to investigate the extent of damage at the Park at Redmond Condominium complex.
16 Evolution, in conjunction with Eagle West consultants, performed a Joint Intrusive Investigation at
17 the Park at Redmond Condominium complex. The Association understands from Evolution that the
18 investigation revealed extensive hidden damage to sheathing, framing, and weather resistive
19 barrier throughout the property attributable to long term, incremental and progressive water
20 damage. According to the Association's experts, the cost to repair the hidden damage at the Park at
21 Redmond Condominium complex exceeds the jurisdictional limit of \$75,000.

22 4.4 Eagle West Denial. On October 7, 2020, Eagle West wrongfully denied coverage for the
23 Association's claim.

1 **V. FIRST CLAIM AGAINST THE PARK AT REDMOND INSURERS FOR**
2 **DECLARATORY RELIEF THAT THE PARK AT REDMOND POLICIES PROVIDE**
3 **COVERAGE**

4 5.1 Incorporation by Reference. The Association re-alleges and incorporates by reference the
5 allegations of paragraphs 1.1 through 4.4, above, as if fully set forth herein.

6 5.2 Declaratory Relief. An actual, present and justiciable controversy has arisen between the
7 Association and the Park at Redmond Insurers regarding the interpretation of their policies. The
8 Association seeks declaratory relief from the Court in the form of determinations regarding the
9 following disputed issues:

10 (A) The Park at Redmond Policies cover the hidden damage to exterior building
11 components including but not limited to exterior sheathing and framing at the Park at Redmond
12 Condominium complex.

13 (B) No exclusions, conditions, or limitations bar coverage under the Park at Redmond
14 Policies.

15 (C) The loss or damage to the Park at Redmond Condominium complex was
16 incremental and progressive. New damage commenced during each year of the Park at Redmond
17 Policies.

18 (D) As a result, the Park at Redmond Policies cover the cost of investigating and
19 repairing the hidden damage to exterior building components including but not limited to exterior
20 sheathing and framing at Park at Redmond Condominium complex.

21 **VI. SECOND CLAIM AGAINST EAGLE WEST FOR**
22 **BREACH OF CONTRACT**

23 6.1 Incorporation. The Association re-alleges and incorporates by reference the allegations of
24 paragraphs 1.1 through 5.2, above, as if fully set forth herein.

25 6.2 Eagle West has contractual duties under the terms of its policy and/or policies to pay the
26 cost of investigating and repairing the covered damage to the Park at Redmond Condominium
27 complex.

6.3 Eagle West breached its contractual duties by wrongfully denying coverage on October 7, 2020, and by failing to pay the cost of repairing the covered damage to the Park at Redmond Condominium complex.

6.4 As a direct and proximate result of Eagle West's breach of its contractual duties the Association has been damaged in an amount to be proven at trial.

6.5 Additional Damages. As a direct and proximate result of Eagle West's breach of its contractual duties, the Association has been forced to incur attorneys' fees, expert costs, investigation costs and other expenses in order to prosecute this action, the sole purpose of which is to obtain the benefits of the Association's insurance contracts.

VII. THIRD CLAIM AGAINST EAGLE WEST FOR INSURANCE BAD FAITH

7.1 Incorporation by Reference. The Association re-alleges and incorporates by reference the allegations of paragraphs 1.1 through 6.5, above, as if fully set forth herein.

7.2 The business of insurance is one affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. RCW 48.01.030. An insurer has a duty to act in good faith. This duty requires an insurer to deal fairly with its insured. The insurer must give equal consideration to its insured's interests and its own interests, and must not engage in any action that demonstrates a greater concern for its own financial interests than its insured's financial risk. An insurer who does not deal fairly with its insured, or who does not give equal consideration to its insured's interests, fails to act in good faith.

7.3 The duty of good faith requires an insurer to conduct a reasonable investigation before refusing to pay a claim submitted by its insured. An insurer must also have a reasonable justification before refusing to pay a claim. An insurer who refuses to pay a claim, without conducting a reasonable investigation or without having a reasonable justification, fails to act in good faith.

7.4 Eagle West had a duty to investigate, evaluate, and decide the Association's claim in good faith. Eagle West breached its duty by unreasonably investigating, evaluating, and/or denying the claim by, among other things: (1) failing to acknowledge that weather conditions such as rain or wind-driven rain were one of the causes of the hidden damage at the Park at Redmond Condominium complex; (2) failing to acknowledge that weather conditions such as rain and wind-driven rain are covered causes of loss under its policy(s); (3) failing to acknowledge that there is coverage under its policy(s) when damage results from a concurrent combination of rain and bad construction or wear and tear; (4) failing to acknowledge that there is coverage under the resulting loss clause in its policy(s); and (5) failing to define terms in the Eagle West policy pursuant to the plain meaning of the terms.

7.5 A violation, if any, of one or more of the Washington claim handling standards set forth below is a breach of the duty of good faith, an unfair method of competition, an unfair or deceptive act or practice in the business of insurance, and a breach of the insurance contract. Eagle West's conduct violated Washington claim handling standards:

- Which require it to fully disclose all pertinent coverages.
- Which prohibit misrepresentations regarding relevant facts (e.g. the cause of damages) or coverage.
- Which prohibit the practice of refusing to pay claims without conducting a reasonable investigation.
- Which require Eagle West to provide a reasonable explanation of the relevant facts, law and policy language.
- Which require Eagle West to adopt and implement reasonable standards for the prompt investigation of claims.

7.6 Eagle West's actions and omissions, including but not limited to its denial of coverage and failure to acknowledge pertinent coverage under its policy, are unreasonable, unfounded, and frivolous under the circumstances and constitute a breach of Eagle West's duty of good faith. As a

1 direct and proximate result of the breaches, the Association has been damaged in an amount to be
 2 proven at trial.

3 **VIII. FOURTH CLAIM AGAINST EAGLE WEST FOR VIOLATIONS OF THE**
 4 **CONSUMER PROTECTION ACT**

5 8.1 The Association re-alleges and incorporates by reference paragraphs 1.1 through 7.6,
 6 above, as if fully set forth herein.

7 8.2 Violations of WAC claims handling standards are per se CPA violations. On information
 8 and belief, the conduct of Eagle West was deceptive, impacted the public, and had the capacity to
 9 deceive. The Association is a consumer. As a direct and proximate result of Eagle West's
 10 violations, the Association has been damaged in an amount to be proven at trial. The Association is
 11 entitled to damages, CPA penalties of up to \$25,000 per violation, and attorneys' fees under the
 12 CPA.

13 **IX. PRAYER FOR RELIEF**

14 WHEREFORE, the Association prays for judgment as follows:

15 9.1 Declaratory Judgment Regarding Coverage. A declaratory judgment that the Park at
 16 Redmond Policies provide coverage as described herein.

17 9.2 Money Damages. For money damages against each of the Park at Redmond insurers for the
 18 cost of investigating and repairing hidden damage at the Park at Redmond Condominium complex
 19 in an amount to be proven at trial, as well as money damages against Eagle West for breach of the
 20 duty of good faith in an amount to be proven at trial.

21 9.3 Attorneys' Fees and Costs of Suit. For reasonable attorneys' fees (including expert fees).
 22 *See Olympic Steamship Co. v. Centennial Ins. Co.*, 117 Wn.2d 37, 811 P.2d 673 (1991), and RCW
 23 48.30.015.

24 9.4 CPA Penalties. For CPA penalties against Eagle West of up to \$25,000 per violation.

25 9.5 Other Relief. For such other and further relief as the Court deems just and equitable.
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 27

X. DEMAND FOR JURY TRIAL

10.1 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Association demands trial by jury in this action of all issues so triable.

DATED this 1st day of March, 2022.

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